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THE HON. SRI M. BHAKTAVATSALAM: Sir, I move the following amendment—

"In clause 1, sub-clause (1), *for* the figures '1960', *substitute* the figures '1961'."

MR. CHAIRMAN: The question is—

"In clause 1, sub-clause (1), *for* the figures '1960', *substitute* the figures '1961'."

The amendment was put and carried.

Clause 1, as amended, was put and carried.

Preamble.

MR. CHAIRMAN: The motion is—

"That the Preamble do stand part of the Bill."

THE HON. SRI M. BHAKTAVATSALAM: Sir, I move the following amendment—

"In the Preamble, *for* the words 'Eleventh Year', *substitute* the words 'Twelfth Year'."

MR. CHAIRMAN: The question is—

"In the Preamble, *for* the words 'Eleventh year', *substitute* the words 'Twelfth year'."

The amendment was put and carried.

The Preamble, as amended, was put and carried.

THE HON. SRI M. BHAKTAVATSALAM: Sir, I move—

"That the Madras Cinemas (Regulation) Amendment Bill, 1960 (L.A. Bill No. 32 of 1960), as amended, be passed."

MR. CHAIRMAN: The question is—

"That the Madras Cinemas (Regulation) Amendment Bill, 1960 (L.A. Bill No. 32 of 1960), as amended, be passed."

The motion was put and carried and the Bill, as amended, was passed.

(2) THE EVACUEE INTEREST (SEPARATION) MADRAS SUPPLEMENTARY BILL, 1961 (L.A. BILL NO. 7 OF 1961).

* THE HON. SRI M. BHAKTAVATSALAM: Mr. Chairman, Sir, I move—

"That the Evacuee Interest (Separation) Madras Supplementary Bill[a], 1961 (L.A. Bill No. 7 of 1961), as passed by the Legislative Assembly, be taken into consideration."

Sir, I shall briefly explain the provisions of the Bill. Although the Evacuee Interest (Separation) Act, 1951 (Central Act LXIV of 1951) has been in force for over nine years, applications for the separation of evacuee interests from composite properties are still being filed. In the absence of a provision in the Act fixing a time-limit for filing applications, applications could still be filed

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with the result that it is not posssible to complete the work in the near future. Parliament has, therefore, enacted the Evacuee Interest (Separation) Amendment Act, 1960 (Central Act 27 of 1960), so as to provide that no application under section 6 of the principal Act shall be entertained if filed after the expiry of one year from the commencement of the Amendment Act. The Amendment Act came into force on the 15th October 1960. As it is likely that some of the claims may relate to matters in the State List in the Seventh Schedule to the Constitution and in order to make the amendments effective in the State in so far as they relate to matters in the State List, it was necessary to enact suitable supplementary legislation. As the Legislature was not in session, the Evacuee Interest (Separation) Madras Supplementary Ordinance, 1960 (Madras Ordinance 2 of 1960), was promulgated by the Governor. The Evacuee Interest (Separation) Madras Supplementary Bill, 1961, is intended to replace the above Ordinance.

Sir, I request the House to accept the motion.

MR. CHAIRMAN : Motion moved—

"That the Evacuee Interest (Separation) Madras Supplementary Bill, 1961 (L.A. Bill No. 7 of 1961), as passed by the Legislative Assembly, be taken into consideration."

SRI K. BALASUBRAMANYA AYYAR : Sir, this is a small Bill. The procedure here is very peculiar. The Evacuee Interest (Separation) Amendment Act was passed by the Central Legislature. Item 32 of the Union List governs this subject. The item is "Property of the Union and the revenue therefrom, but as regards property situated in a State subject to legislation by the State, save in so far as Parliament by law otherwise provides." Therefore, we have to undertake legislation as regards separation of evacuee property from the other properties. But the question is whether there are any cases of evacuee property in this State. Most of the evacuee property is in Northern India. Therefore, why should we take any step at all in this matter? That is a matter for the Government to consider.

THE HON. SRI M. BHAKTAVATSALAM : There is the question of risk.

SRI K. BALASUBRAMANYA AYYAR : But there are not going to be evacuees hereafter. If any evacuee property is in our State, I can understand. I think on this matter there was some correspondence with the Government of India also. So, without
2.5 p.m. any such property in our State, why should we undertake this legislation? Are we to do it because it is in the Union List (No. 32) and because the Central Government have adopted it? Has any other State passed such an Act? Has Mysore done is for an instance? Our State must decide first whether there is any necessity for any legislation. Secondly, I question the way in which the Bill has been drafted. There are what are called 'legal fictions'. We say sometimes . . . . as if it has been enacted with

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a Printed as Appendix III on page 273 infra.

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effect from such and such date'. That is a legal fiction intended to provide for retrospective effect. But we are not aware of a legal fiction like 'as if it has been passed by the State Legislature'. This goes too far. Of course, I can understand the other legal fiction, viz. Those provisions which are mentioned in the Central Act will apply here'. But I can never understand this, 'that the enactment now made by the Central Government will be valid and binding as if it has been passed by the State Legislature'. We have not passed any Act. We are keeping quiet. So, this is too much of a legal fiction according to me. The provision in this Act is only an enabling provision and the Government do not want it to go on applying without limitation. So, they have said that there should be a limitation of one year and that if within one year no application is put in there is an end of the matter. My point is, why should we implements an Act which does not affect our State at all. A case must be made out for an Act first. Then the legal fictious should be such as will not go too for. We could as well have provisions like the ones contained in the States' Reorganization Act. But even for that a case has to be made out. This is merely submitting to the orders of the Union Government because it is they that want this Bill to be all comprehensive. There are certain legislative forms and procedures which we must follow and we cannot yield to orders from outside. They may say: 'We must have a pattern and therefore let us pass these orders.' But there is no property in our State that can be covered by this Act. This Bill was introduced in the Rajya Sabha and in the statement of objects and reasons I find it said: 'Necessary legislative steps will be taken by the State Governments also to make the Act effective there.' That is all what I wanted to say.

* Sri ABDUL HAMEED KHAN: Mr. Chairman, I am sorry, the hon. Member, who has just spoken, has assumed a little too much, when he said that there were no cases in this State that would be covered by the present Act. I feel there are certain cases which, though they do not exist now, are likely to come up time and again. There must be provision made to cover such cases and the measure now sought to be passed is certainly a welcome measure. Besides, I would like to submit that the absence of cases is not going to deter the Government from carrying out their duties. My hon. Friend has been harping upon the term 'as if it has been passed by the State Legislature'. This is not the first time, Sir, that we have done like this. On previous occasions also, in order to simplify matters, the local Government was asked to pass measures in consonance with the Central Acts and the local Government also agreed and passed such Acts.

Sri MOHAMED RAZA KHAN: Mr. Chairman, I am in a state of confusion. The point stressed by my esteemed Friend, Mr. Balasubramanya Aiyer is this. This Bill has come before us not because it is necessary but for the sake of uniformity. But conditions differ from State to State. Of course, an Ordinance was passed because the House was not in session and was prorogued. It is sought to be replaced now.

Sir, immediately after partiton, there was a lot of migration and several properties were involved in such migration. Fortunately, in Madras, there are not many cases like that. For one thing, the properties were few and the evacuees also were few so far as Madras State is concerned. These cases were governed by the Evacuee Act and there was a lot of confusion and one or two cases led to serious complications also. Let me not expatiate on those things now. Under the present law, if anybody wants to leave this State or the Indian Union and go to Pakistan, his property does not come under this Act. As my esteemed Friend said, if the Centre wants us to pass this Act for the sake of uniformity, it is a different matter. But if it is a question of necessity, then a case must be made out. The Minister in charge must say, for instance, 'Even today there are disputes in respect of evacuee property; there are so many cases pending still'. Unfortunately, we have not been given any background material. The Minister must say, he has received some report and several matters have to be settled and, therefore, he has brought in the measure. No such statement is before us. It is merely stated that the Centre wants it and we should have it for the sake of uniformity. I believe the Hon. Minister will provide us some material.

4-00 a.m. * THE HON. SRI M. BHAKTAVATSALAM : Mr. Chairman, Sir, I can only say this in reply that we cannot be sure, absolutely sure, that there is no necessity for such a legislation. Then there is no harm in passing a legislation like this. The Government of India were of that view. They can bring their new Act into force only after all the States had passed the supplemental legislation. With that view this Government concurred. The Government of India wanted to bring into force the legislation by 1st October 1960. Therefore an Ordinance was issued by the Government.

SRI K. BALASUBRAMANYA AYYAR : My point is this. That has nothing to do with the main Act. I refer only to this amendment, this further amendment of the Act. The Government say they have a number of cases and therefore this amendment is necessary. I only want further particulars.

* THE HON. SRI M. BHAKTAVATSALAM : I also referred to the amendment. We cannot be sure that there is no need for such an amendment even in respect of this State. The Government of India proposed to bring the legislation into force only after all the States had passed the supplemental legislation. But subsequently they proposed to bring the legislation into force from the 1st October 1960. Therefore an ordinance was passed and I am here with this short Bill to regularize that ordinance.

MR. CHAIRMAN : The question is—

'That the Evacuee Interest (Separation) Madras Supplementary Bill, 1961 (L.A. Bill No. 7 of 1961), as passed by the Legislative Assembly, be taken into consideration.'

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a Printed as Appendix IV on pages 273-277 infra.

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The motion was put and carried and the Bill was taken into consideration.

Clauses 2 and 3 were put and carried.

Clause 1 and the Preamble were put and carried.

THE HON. SRI M. BHAKTAVATSALAM : Mr. Chairman, Sir. I move—

'That the Evacuee Interest (Separation) Madras Supplementary Bill, 1961 (L.A. Bill No. 7 of 1961), as passed by the Legislative Assembly, be passed'.

MR. CHAIRMAN : The question is—

'That the Evacuee Interest (Separation) Madras Supplementary Bill, 1961 (L.A. Bill No. 7 of 1961), as passed by the Legislative Assembly, be passed'.

The motion was put and carried and the Bill was passed.

(3) THE MADRAS STATE AID TO INDUSTRIES (AMENDMENT) BILL, 1961 (L.A. BILL NO. 26 OF 1960).

THE HON. SRI R. VENKATARAMAN : Mr. Chairman, Sir. I move—

'That the Madras State Aid to Industries (Amendment) Bill, 1961 (L.A. Bill No. 26 of 1960), as passed by the Legislative Assembly, be taken into consideration.

Sir, I shall briefly deal with the three amendments which this Bill seeks to introduce to the State Aid to Industries Act of 1922. It is considered that the procedure for the examination and disposal of applications for loan should be simplified further. Section 8 (3) of the Act specified that every application for aid shall be placed before the Board of Industries for advice. But, under section 17-A (1), the Director of Industries and Commerce is empowered to sanction loans up to Rs. 25,000 and under section 17-B (1) the officers subordinate to him can grant loans up to Rs. 10,000. The intention is that only applications for loans exceeding Rs. 25,000 should go before the Board of Industries for advice. The rest would be disposed of according to the rules prescribed. Otherwise, the simplification of the procedure which we need, will not be achieved. The amendment to sub-section (3) of section 8 makes the intention clear.

Although, under the rules framed under the Act, provision has been made for the grant of loans on personal securities and on the security of one or more sureties, a doubt has been raised that the grant of loans on such terms is beyond the scope of existing sections 9 and 10 of the Act. New sub-section (1-A) of section 10 provides legal basis for the grant of loans on personal security of the applicants.

New section 10-A makes the transfer of properties including leases of properties mortgaged to the Government void in law unless such transfer is made with the written permission of the sanctioning authorities. Similarly, new section 10 (*b*) makes void the